

Case No. 17-cv-2590 (TSC)

Case No. 17-cv-2605 (TSC)

Case No. 17-cv-2606 (TSC)

CONSOLIDATED CASES

ORDER

This action involves three separate challenges to President Donald J. Trump’s December 4, 2017 proclamation, which decreased the size of the Bears Ears National Monument and divided it into two separate parcels.

The first challenge was brought on December 4, 2017 by the Ute Indian Tribe, Navajo Nation, Hopi Tribe, Ute Mountain Ute Tribe, and Zuni Tribe (collectively, “Tribal Plaintiffs”). The second was brought on December 6, 2017 by Utah Dine Bikeyah, Conservation Lands Foundation, Inc., Society of Vertebrate Paleontology, Patagonia Works, Friends of Cedar Mesa, National Trust for Historic Preservation, Archaeology Southwest, and The Access Fund (collectively, “UDB Plaintiffs”). And the third challenge was brought on December 7, 2017 by the Natural Resources Defense Council, Inc., National Parks Conservation Association, The Wilderness Society, Southern Utah Wilderness Alliance, Grand Canyon Trust, Great Old Broads for Wilderness, Western Watersheds Project, Sierra Club, Center for Biological Diversity, Wildearth Guardians, and Defenders of Wildlife (collectively, “NRDC Plaintiffs”).

By Order dated February 15, 2018, pursuant to Federal Rule of Civil Procedure 42(a), the court granted Defendants’ motion to consolidate the cases because they involve common questions of law and fact and adjudicating them together serves the interests of judicial economy. (ECF. No. 32.)

Before the court is Federal Defendants’ motion to dismiss (ECF No. 49), and extensive briefing supporting and opposing the motion.

WHEREAS, the basis for Federal Defendants’ motion is that Plaintiffs lack standing to bring their claims, that Plaintiffs’ claims are not ripe for adjudication, and that the Antiquities Act, and the Act alone, provided President Trump with the authority to decrease the size of the monument;

WHEREAS, if the court determines that Plaintiffs have standing, its decision regarding the Antiquities Act will necessarily be one on the merits;

WHEREAS, if the court determines that Plaintiffs do not have standing based on the facts as they existed on the date of the Complaints, they will likely seek leave to file an amended complaint to include allegations concerning facts that post-date their Complaints;

WHEREAS, the court would benefit from additional argument and information regarding the basis of Plaintiffs' standing;

WHEREAS, Plaintiffs have notified the court of the impending release of a series of new management plans regarding the Bears Ears National Monument (*see* ECF No. 137);

WHEREAS, the court is mindful its obligations to conserve judicial resources and render an informed decision;

It is hereby **ORDERED** that Federal Defendants' motion to dismiss is **DENIED**, with leave to renew following Plaintiffs' filing of an amended complaint. The parties shall come to the October 7, 2019 status conference prepared to discuss an expedited, coordinated schedule for the filing of an amended complaint and the subsequent briefing.

Date: September 30, 2019

Tanya S. Chutkan
TANYA S. CHUTKAN
United States District Judge